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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,626	08/19/2003	David G. Mann	WOOSP0131US	4453

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EXAMINER

SPISICH, MARK

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/643,626	Applicant(s) MANN, DAVID G.	
	Examiner Mark Spisich	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9,12-14,16 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 3,10,11,15,17,21 and 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: "15" (page 5, line 5) is incorrect in that this number is the "top opening".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,4-6 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Passafiume (USP 6,119,303). The patent to Passafiume discloses a paint roller grid (10) including a wiping surface (14) and a pair of laterally spaced hooks (45,46) extending rearwardly from the grid for hooking over the upper rim (94) of a container (90) wherein each of the hooks includes a rearwardly extending upper portion (50,52) and a downwardly extending inturned lip have a forwardly facing inwardly angled surface (47,47). The term "laterally" does not appear to be a proper description of an angling and as such the convex surfaces of the lips of Passfiume still meet the structure of the claim(s). Usually the term "lateral" is a relationship of one element with respect to another and no such relationship is set forth in the claim(s). With regard to claims 4 and 5, the hooks (45,46) would have at least some degree of flexibility and the comparisons with the size of the container are noted; however, the container is not positively recited

in claim 1. As claim 1 does not recite the combination of the grid with the container, the recitation that the bottom edge of the grid contacts the bottom of the container does not define over the prior art in that the container is not claimed.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welt (USP 3,394,425) in view of Passafiume (USP 6,119,303). The patent to Welt discloses a paint roller grid (12) including a wiping surface (14) and further including at least one rearwardly extending hook (32,34) for hooking over an upper rim (52) of a container (56) and further including a pair of laterally spaced feet (24,26) for engagement with an inner surface of the container. The patent to Welt discloses the invention substantially as claimed with the exception of the frame. The patent to Passafiume discloses a roller wiper/grid (14) including a frame (24,26,etc). It would have been obvious to one of ordinary skill to have provided such a frame to the device of Welt to provide added rigidity. It is noted that claim 13 has been amended to recite that the feet are rigidly affixed with respect to the frame/grid, while the patent to Welt discloses that the feet and hooks are rotatably secured to the grid. The patent to Passafiume discloses that the hooks (45,46) of a roller grid may be rigidly fixed with respect to the grid. In addition, the purpose of the rotating feet/hooks in Welt is to

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accommodate different sized containers; while many of the grids in the public domain are fixed and generally for use with a 5 gallon bucket or a predetermined size. It would have been obvious to one of ordinary skill to have fixed to feet/hooks of Welt to match a common size bucket. As the container is not positively recited, the patent to Welt also meets claim 16.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Passafiume (USP 6,119,303) in view of McManaway (USP 4,083,466). The patent to Passafiume discloses the invention substantially as claimed with the exception of the hooks extending laterally outward from opposite side edges of the grid. The patent to McManaway discloses a grid (35) with similar hooks (E,F) and which hooks extend laterally outward from side edges thereof (see fig 1). It would have been obvious to one of ordinary skill to have modified the device of Passafiume as such depending on the desired location of the grid relative to the inside of the container.

7. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Passafiume (USP 6,119,303) in view of Welt (USP 3,394,425). The patent to Passafiume discloses the invention substantially as claimed as well as means (56,58) for engaging an inner surface of the container. The patent to Passafiume fails only to disclose the provision of a pair of rearwardly extending and laterally spaced feet for this purpose. The patent to Welt discloses a pair of spaced feet (24,26) which serve the same purpose. It would have been obvious to one of ordinary skill to have modified the device of Passafiume as such as it would eliminate the need to bend the entire lower portion of the grid. Claim 7 refers to engagement of the grid with respect to an article

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(the container) which is **not** positively recited. Thus claim 7 refers not to a particular structure of the feet but to a type of engagement thereof with a surface which is not claimed.

8. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Passafiume (USP 6,119,303) in view of Morgan, Sr. (USP 4,145,789). The patent to Passafiume discloses the invention substantially as claimed with the exception of a portion of the bottom edge of the grid engaging the bottom of the container. The patent to Morgan discloses such an arrangement (see fig 1). It would have been obvious to one of ordinary skill to have modified the grid of Passafiume so that the grid would be more stably supported in the container.

9. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Passafiume (USP 6,110,303) in view of Linn et al (USP 5,283,928). The patent to Passafiume discloses the invention substantially as claimed with the exception of the slight flexure of the hooks when the grid is secured to the container. The patent to Linn discloses a grid (10) having flexible hooks (23,24) which slightly flex upon attachment to the container (see fig 3). It would have been obvious to one of ordinary skill to have modified the device of Passafiume as such to produce a more snug connection between the grid and container.

Response to Arguments

10. Applicant's arguments filed 18 January 2005 have been fully considered but they are not persuasive. With regard to Passafiume, it is pointed out that claims refer to an angled **surface** and not to a particular shape of configuration of the hooks. It is further

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pointed out that the term "laterally" does not appear to be the best term to describe "angling". The so-called "surface", as defined by the examiner with respect to the patent to Passafiume, is the convex free end surface(s) of the respective hooks (45,46).

Applicant seems to be arguing the differences between the specification and the prior art as opposed to the particular limitations in the claims. The provision of a frame to a roller grid (such as the one of Welt) would be obvious to one of ordinary skill. The mere absence of such is not necessarily a teaching against providing one. The provision of fixed feet, although the patent to Welt discloses movable feet, would be obvious to one of ordinary skill for the reason(s) set forth in this office action (so as to adapt to a specific container size as opposed to being adaptable to various sizes). The references to the dimensions of the grid relative to the container and any engagement of the grid/feet with the container are noted; however, the only claims wherein this is material would be to claims 18+ in that these claims positively recite the combination of the grid with the container. With regard to claim 2, the fact that Passafiume fails to disclose a slight outward angling is not necessarily a teaching against doing so.

Applicant's amendment/argument(s) have been deemed persuasive with regard to at least some of the dependent claims (as will be obvious below).

Allowable Subject Matter

11. Claims 3,10,11,15,17,21 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Spisich
Primary Examiner
Art Unit 1744

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